RECORD AND BRIEFS

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IN THE
Supreme Court of the United States

MASTERPIECE CAKESHOP, LTD., ET AL.,
Petitioners,

V.

COLORADO CIVIL RIGHTS COMMISSION, ET AL.,
Respondents.

On A Writ of Certiorari To the Court of Appeals of Colorado

BRIEF OF THIRTY-SEVEN BUSINESSES AND ORGANIZATIONS AS *AMICI CURIAE* SUPPORTING RESPONDENTS

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I. INTEREST OF THE *AMICI CURIAE*

This brief is submitted with the written consent of all parties pursuant to Rule 37.3(a).[1]

Amici include companies from a wide variety of industries, including technology, materials, airline, financial services, consumer products, apparel, hoteliers, service providers, and retailers.

Amici share a belief that non-discrimination laws ensure all Americans are treated with dignity and respect. Non-discrimination laws also improve profitability, productivity, and creativity in the workplace. The broad and ill-defined exemptions from non-discrimination laws proposed by Petitioners will burden *amici* and their employees. Petitioners' positions will create uncertainty and impose unnecessary costs and administrative complexities on employers. Commerce will also be disrupted if businesses are required to interrogate their customers when providing goods or services to ensure businesses are not adopting or endorsing a message with which they disagree. Moreover, *amici*

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[1] Blanket letters of consent from Petitioners and Respondent, Colorado Civil Rights Commission, to the filing of amicus briefs have been lodged with the Clerk. Ria Tabacco Mar, counsel of record for Respondents Charlie Craig ("Craig") and David Mullins ("Mullins") consented to the filing of this amicus brief on behalf of Respondents Craig and Mullins. Pursuant to Supreme Court Rule 37.6, counsel for *amici* state that no counsel for any party authored this brief in whole or in part, and no person or entity other than *amici* made a monetary contribution intended to fund preparation or submission of this brief.

will be unable to rely on state non-discrimination laws to ensure their employees are treated fairly as they consume goods and services either as members of the community or as employees. Smooth, predicable, and efficient business transactions may be disrupted if businesses decline to serve *amici*'s employees on either speech or religious grounds.

Amici want to serve customers of all identities, beliefs, and backgrounds. The only prerequisite to conducting business is, and should continue to be, whether the customer can meet the business's requirements for purchase: whether the customer has the financial capacity to purchase the good or service and whether the customer can abide by any necessary contractual obligations. Customers' personal beliefs are and should remain irrelevant to whether they can transact with a business.

Amici submit this brief to advise the Court of the adverse impacts the Petitioners' proposed rule are likely to cause for *amici*, other employers, and their employees.

The businesses and organizations joining this brief, also listed in the attached Appendix, are: Affirm, Inc.; Airbnb, Inc.; Amalgamated Bank; Amazon.com, Inc.; American Airlines; Apple; Ben & Jerry's Homemade Inc.; Choice Hotels, International; Cisco Systems, Inc.; Citigroup Inc.; Deutsche Bank; Glassdoor, Inc.; Intel Corporation; John Hancock; Levi Strauss & Co.; Linden Research, Inc.; Lyft Inc.; Marriott International, Inc.; MassMutual; Mitchell Gold + Bob Williams; MongoDB, Inc.; National Gay & Lesbian Chamber of Commerce; NIO U.S.; PayPal Holdings, Inc.; Pfizer Inc; Postmates Inc; PricewaterhouseCoopers LLP;

Prudential Financial, Inc.; Replacements, Ltd.; salesforce.com, inc.; SurveyMonkey; The Estée Lauder Companies; Uber Technologies, Inc.; WeddingWire, Inc.; Weebly, Inc.; Witeck Communications; and Yelp Inc..

II. SUMMARY OF THE ARGUMENT

A ruling for the Petitioners will disrupt the smooth and orderly flow of *amici*'s business and undercut *amici*'s efforts to safeguard their employees from discrimination. First, the Petitioners' proposed exemption from non-discrimination laws based on businesses' provision of expressive goods and services is not administrable for lower courts and, as relevant here, the business community. To determine whether the *amici*'s business partners can opt out of non-discrimination laws on speech grounds, *amici* would be forced to decide whether certain goods and services are as expressive as baking a cake. Making such determinations is both difficult and resource-consuming for *amici*. Additionally, the adoption of Petitioners' position, a position that assumes the expressive message of a good or service belongs to the business, would require *amici* to interrogate their customers to ensure *amici* are not accidentally endorsing a message or event with which they do not agree.

Moreover, permitting speech- or religious-based exemptions to non-discrimination laws would substantially weaken these laws and, in turn, would make *amici*'s employees more vulnerable to discrimination. They would be subject to increased discrimination as customers in their own communities and while performing their jobs. Discrimination negatively affects employees' morale and the ability of *amici* to operate their businesses as efficiently as possible. Indeed, if *amici*'s employees can be denied goods and services from other businesses simply because of employees' identities, *amici* will be unable to conduct business smoothly

and predictably. Non-discrimination laws benefit *amici*'s businesses and reflect the policies and values *amici* have worked hard to instill in their own corporate cultures. A ruling for the Petitioners will negatively affect both.

III. ARGUMENT

Fifty-three years ago, in *Heart of Atlanta Motel Inc. v. United States*, 379 U.S. 241 (1964), this Court recognized the "deprivation of personal dignity" experienced by individuals when they are denied "equal access to public establishments," and held that business proprietors could not refuse service to individuals based on their racial identity. *Id.* at 250, 262. Again, in *Newman v. Piggie Park Enters., Inc.*, 390 U.S. 400 (1968),[2] this Court reiterated the importance of laws prohibiting discrimination in places of public accommodations. There, this Court affirmed the lower court's holding that the owner of a barbeque restaurant did not have a constitutional right under the First Amendment to refuse service to African-Americans "upon the ground that to do so would violate his sacred religious beliefs." *Newman v. Piggie Park Enters., Inc.*, 256 F. Supp. 941, 945 (D.S.C. 1966), *aff'd in relevant part and rev'd in part on other grounds,* 377 F.2d 433 (4th Cir. 1967).

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[2] The question presented before the Court was whether a claimant who receives an injunction under the Civil Rights Act of 1964 should be able to obtain reasonable attorneys' fees. The Court did not directly address the constitutional question. *Id.* at 401.

Amici value non-discrimination laws, which ensure all Americans are treated with respect and dignity. *Amici* have an interest in this Court continuing to uphold the ability of governments to enforce nondiscrimination laws. They also have an interest in this Court rejecting arguments that the First Amendment exempts some businesses from complying with those laws. Indeed, *amici* have adopted their own non-discrimination policies, not solely to preserve the dignity of their customers and employees, but also because these policies are beneficial to profitability, productivity, and creativity. *See infra* Section D.

Beyond *amici*'s general interest in maintaining the efficacy of non-discrimination laws, *amici* are concerned about the potential effects on their businesses if this Court adopts the Petitioners' constitutional interpretation. The Petitioners' position on expression and expressive conduct would create difficult-to-predict possible exemptions to non-discrimination laws and laws of general applicability. Such uncertainty regarding these exemptions is problematic for *amici* because *amici* would have difficulty predicting whether businesses with which they wish to partner create expressive goods or provide expressive services that would entitle them to an exemption from generally applicable laws. Moreover, a ruling that makes the customer's expressive message synonymous with the business's message would require *amici* to engage in intrusive and awkward interactions with their customers.

Not only are *amici* concerned with the administrability problems Petitioners' proposed rule would create, they are troubled by the number of

exemptions to non-discrimination laws that would exist if the Court were to accept Petitioners' positions. The weakening of non-discrimination laws via speech- and religious-based exemptions will harm *amici* and their employees by potentially subjecting employees to increased discrimination (1) as they purchase goods and services in their own communities, which undercuts *amici*'s own non-discrimination polices and negatively impacts employee morale and productivity; and (2) when conducting business as a part of their job, which would disrupt the smooth and efficient flow of *amici*'s operations.

A. Petitioners' Proposed Speech-Based Exemptions to Laws of General Applicability are Overly Broad and Difficult To Predict.

Amici are concerned that an adoption of the Petitioners' argument regarding expression and expressive conduct could result in numerous and difficult-to-predict exemptions to state non-discrimination laws and other neutral laws of general applicability.[3] These unpredictable exemptions would have negative effects on *amici*'s business operations and profits. A lack of clarity in

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[3] Petitioners' proposed rule is not limited to non-discrimination laws. Rather, it would permit First Amendment exemptions to *any* neutral law of general applicability. Under Petitioners' proposed rule, for example, businesses could exempt themselves from health and safety regulations on speech or religious grounds.

the application of the law imposes significant costs on businesses.

Adopting Petitioners' arguments would create unpredictable exemptions to laws of general applicability because Petitioners' position on what qualifies as expression or expressive conduct is broad and ambiguous. It is undisputed that Petitioner Phillips refused to bake a cake for the Respondents without any information about the cake they desired.[4] Thus, the mere act of baking a cake is expressive in Petitioners' view.

Administering such an unwieldy position on speech-based exemptions to generally applicable laws would be challenging for lower courts and the business community alike.[5] To apply Petitioners'

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[4] *See Craig v. Masterpiece Cakeshop Inc.*, 370 P. 3d 272, 276 (Colo. 2015) ("[Respondents] requested that Phillips design and create a cake to celebrate their same-sex wedding. Phillips declined . . . . [Respondents] promptly left Masterpiece without discussing with Phillips any details of their wedding cake."); *Craig v. Masterpiece Cakeshop, Inc.*, CR 2013-008, 64a-65a (Colo. Office of Admin. Cts. Dec. 6, 2013) ("The whole conversation between Phillips and [Respondents] was very brief, with no discussion between the parties about what the cake would look like.").

[5] The Court considers the administrability of its holding when deciding constitutional questions, and it should in this case as well. *See Vieth v. Jubelirer*, 541 U.S. 267 (2004) (finding an Equal Protection claim regarding gerrymandering nonjusticiable because the Court could not find a judicially manageable standard); *United States v. Munoz-Flores*, 495 U.S. 385, 395-96 (1990) (recognizing the need for courts to develop judicially manageable standards); *see generally* Richard H. Fallon, Jr., *Judicially Manageable Standards and Constitutional Meaning*, 119 HARV. L. REV. 127 (2006).

constitutional interpretation, one would need to determine whether certain conduct is as expressive as baking a cake from scratch—regardless of the appearance of the cake. Adopting such a broad definition of expression or expressive conduct could result in a multitude of business activities potentially being expressive. For example, designing a website, editing photos, interior decorating, landscaping, hair styling, practicing medicine, or authoring an appellate brief all could qualify as expressive. Or not. The boundaries of expression or expressive conduct are simply too amorphous under Petitioners' position.

Amici believe that the opportunity for such frequent and unpredictable exemptions from non-discrimination laws and other laws of general applicability will affect *amici*'s daily operations, profitability, employee relations, and customer service.

B. Petitioners' Position on Speech-Based Exemptions Would Create Confusion in the Marketplace.

Petitioners' position on exemptions to non-discrimination laws based on expression or expressive conduct will make it difficult for *amici* to predict when discrimination will be permissible.[6] In

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[6] *Amici*, and the business community in general, value certainty and predictability when conducting commercial transactions, which are shaped through and facilitated by legal rules. *See* Iain MacNeil, *Uncertainty in Commercial Law*, 13 EDINBURGH L. REV. 68, 69 (2009) ("It is often said that business

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other words, *amici* and other businesses will face challenges in determining whether certain vendors provide expressive goods or services because the boundaries of Petitioners' view of expression and expressive conduct are ill-defined. This confusion regarding which companies can opt out of generally applicable laws will disrupt business by creating unpredictability in the marketplace.

Consider the following examples. A Muslim-owned company is seeking a clothing designer to create uniforms for its staff. First, the company would need to determine whether designing uniforms qualifies as expressive under the Petitioners' desired ruling and thus, whether a business could opt out of non-discrimination laws. If the company assumes that creating uniforms is expressive, it must then vet different design companies. That vetting would require the company to expend resources and engage in awkward discussions to determine if the uniform companies were willing to serve Muslim people, or whether doing so would (in their view) infringe on their First Amendment rights.

The same confusion could ensue for a woman-owned company seeking flower arrangements for a presentation. The company would not know whether arranging flowers would be considered expressive

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activity is facilitated by legal certainty."); *see also* William D. Hawkland, *The Uniform Commercial Code and the Civil Codes*, 56 LA. L. REV. 231, 231 (1995) (discussing how the Uniform Commercial Code was intended to create uniformity and certainty).

and, if so, whether a shop may refuse to serve the company because it believes that women should not be engaged in business. An African American-owned business could, under Petitioners' rule, experience the same difficulties in revamping its landscape design. If landscape design were considered expressive, a design company could refuse to work on the business's property under Petitioners' rule to avoid conveying a message of support for African Americans.

Amici cannot operate effectively under such uncertainty. Companies would be forced to spend time, money, and resources determining whether another company will decline to work with them. A holding for the Petitioners would require *amici* to either run the risk of being denied goods or services, or create and maintain an administrative system to (try) to assess whether each and every vendor with which they wish to conduct business: (1) engages in expressive conduct or (2) will decline to provide their expressive goods or services to *amici*. The number of companies with which *amici* transact business means that such assessments will increase costs, create administrative burdens, and divert resources from *amici*'s core business operations.

C. Accepting Petitioners' Position that Businesses are Endorsing the Message of the Customer When Providing Expressive Goods or Services Would Disrupt *Amici*'s Operations.

Petitioner Phillips refused to bake a wedding cake for the Respondents because he viewed the

mere act of baking a cake as endorsing the marriage of a same-sex couple. This argument assumes that the act of baking a cake and having it served at a same-sex wedding means Petitioner Phillips endorsed the couple's marriage. Under the Petitioners' theory of the case, Petitioner Phillips would have been endorsing same-sex marriage even if he baked the cake not knowing it was for a wedding involving a same-sex couple. The import of Petitioners' position—that a business's sale of expressive goods or services to a customer is an endorsement of that customer or their use of the products—would fundamentally change the way businesses would operate. Businesses would avoid associating with individuals or events with which they did not agree. This would wreak havoc on business operations.

As it stands now, consumers and the public in general do not assume that businesses open to the public have adopted or endorsed their customers or the end use of the goods and services they provide to them. *Amici* do not want this to change. The consequences arising from the premise that a business endorses its customers, their events, or their messages would create significant problems for the operation of business. To avoid being associated with individuals, groups, events, or messages with which they prefer not to be associated, businesses would expend resources to scrutinize and interrogate their customers about their lives and the planned use of the goods or services being sold. In addition to the expense associated with such a process, questioning customers in this way would create uncomfortable relations with customers, require

businesses to pry into the private lives of their customers, result in inefficient customer service,[7] and may even trigger discrimination claims.

But interrogation of customers would be necessary under Petitioners' position because businesses may not be able to discern the customer's planned use from the good or service itself. For example, a customer orders a bespoke suit with the intention of wearing it to his induction in to the Ku Klux Klan, but does not immediately share this with the business. To ensure the expressive act of creating a suit will not associate the tailor with the Klan, the tailor would need to question the customer on the suit's intended use. Upon discovering this intended use, the business may decide to decline to design and create the suit because it would not want to be seen as endorsing the Ku Klux Klan.

This problem extends to *amici*'s employees as well. If a business's product counts as expression, the employee creating the product may likewise be perceived as adopting the business's message. This will prove problematic for businesses because employees potentially could refuse to do certain jobs simply because they do not want to be associated with the message. For instance, an atheist employee

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[7] *Amici* value providing top quality customer service, which affects profits. *See generally* Roger Hallowell, *The Relationships of Customer Satisfaction, Customer Loyalty, and Profitability: An Empirical Study*, 7 INT'L J. SERV. INDUS. MGMT. 27 (1996) (finding a correlation between customer satisfaction and profitability).

may refuse to make an Easter cake because the cake would be expressing a view that supported a belief in Christ. While the business could compel the employee to make the cake,[8] such compulsion has potential negative consequences for a business, including: (1) the employee could resign, resulting in the loss of valuable talent and cost associated with rehiring and retraining;[9] (2) the employee could remain at work with low morale, productivity, and job satisfaction; or (3) disciplining an employee could create division among the work force.

Amici do not want their viewpoints or messages dictated by the goods and services they provide to customers. Goods created for customers or services performed for customers are and should remain the expression of the customer, not the business.

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[8] Businesses engage in private action, not state action.

[9] *See* Sophia Kerby & Crosby Burns, *The Top 10 Economic Facts of Diversity in the Workplace,* CTR. FOR AM. PROGRESS (July 12, 2012) ("The failure to retain qualified employees results in avoidable turnover-related costs at the expense of a company's profits.") https://tinyurl.com/y7h9wbjg; John P. Hausknecht et al., *Unit-Level Voluntary Turnover Rates and Customer Service Quality: Implications of Group Cohesiveness, Newcomer Concentration, and Size*, 94 J. APPLIED PSYCH., 1068, 1074 (2009) (finding that turnover was a "leading indicator of customer retention, revenue growth, and profitability").

D. Speech and Religious-Based Exemptions Would Create Holes in Non-Discrimination Laws That May Subject *Amici*'s Employees to Discrimination Inside and Outside of the Workplace.

Safeguarding the dignified and respectful treatment of their employees is of upmost importance to *amici*. Indeed, this is why they adopt robust non-discrimination policies and diversity and inclusion policies.[10] *Amici* adopt these policies not only for moral reasons, but because they are good for business. Such policies are tied to increases in profitability;[11] they promote diverse and inclusive

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[10] For example, 92% of Fortune 500 companies and 99% of the companies surveyed by the Human Rights Campaign in the United States in 2017 provide explicit sexual orientation non-discrimination protections. *See* Human Rights Campaign Foundation, *Corporate Equality Index 2017*, at 7. 82% of Fortune 500 companies and 98% of the companies surveyed by the Human Rights Campaign in the United States in 2017 provide explicit gender identity non-discrimination protections. *See id.*

[11] *See* Credit Suisse ESG Research, *LGBT: The Value of Diversity* 1 (Apr. 2016) (finding that 270 companies that openly support and embrace LGBT employees outperformed and had returns on equity and cash flow that were 10% to 21% higher); M. V. Lee Badgett et al., *The Business Impact of LGBT-Supportive Workplace Policies,* WILLIAMS INST. UCLA, 23 (May 2013) (finding that the "more robust a company's LGBT-friendly policies, the better its stock performed over the course of four years (2002-2006), compared to other companies in the same industry over the same period of time"); Janell L. Blazovich, et al., *Do Gay-Friendly Corporate Policies Enhance Firm Performance?* 35-36 (Apr. 2013) ("[F]irms with gay-

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workplaces, which are more receptive to new ideas and opportunities;[12] and they allow *all* employees to be their full and true selves in the workplace, which in turn, increases their on-the-job morale.[13] Moreover, diverse workforces help "capture new clients."[14] In contrast, companies that do not

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friendly policies benefit on key factors of financial performance, which . . . increase the investor perception of the firm as proxied by stock price movements.").

[12] *See* Feng Li & Venky Nagar, *Diversity and Performance*, 59 MGMT. SCI. 529, 531 (2013); *see also* Sylvia Ann Hewlett, et al., *How Diversity Can Drive Innovation*, HARV. BUS. REV. (Dec. 2013) (finding that diversity "unlocks innovation by creating an environment where 'outside the box' ideas are heard") https://tinyurl.com/j8nyu8k.

[13] *See* Kenji Yoshino & Christie Smith, *Uncovering Talent: A New Model of Inclusion*, DELOITTE UNIV. LEADERSHIP CTR. (Dec. 2013) (reporting on the "negative impacts" felt by all employees when they feel uncomfortable expressing all parts of their identity at work). The positive effects of non-discrimination policies improve the performance of non-LGBT employees as well. *See* Crosby Burns, *The Costly Business of Discrimination*, CTR. FOR AM. PROGRESS 34 (Mar. 2012) ("When gay and transgender employees work in environments where they do not have to hide their sexual orientation and gender identity from their coworkers, everybody's productivity is enhanced, including straight and nontransgender colleagues.").

[14] *See Global Diversity & Inclusion: Fostering Innovation Through a Diverse Workforce*, FORBES INSIGHTS 11 (July 2011); *see also* Badgett, *Business Impact of LGBT*, *supra* note 11, at 21 (explaining that many local governments *require* that their contractors have LGBT supportive hiring practices).

encourage diversity and inclusiveness, "leave employees feeling isolated and fearful."[15]

But *amici*'s non-discrimination policies can only go so far. Employer non-discrimination policies cannot protect employees from discrimination outside of the workplace—*amici* must rely on state law to do that. If state non-discrimination laws like Colorado's are weakened by religious- and speech-based exemptions, *amici*'s employees are more likely to encounter discrimination when purchasing goods and services in their communities. Indeed, empirical evidence shows that sexual orientation discrimination tends to be higher in jurisdictions without non-discrimination laws.[16]

Amici's diverse employees may be unable to engage in ordinary, everyday commercial transactions because of their identity if Petitioners' views were adopted. *Amici* object to such treatment of their employees—or any individual for that matter—on principle, and also for practical reasons. *Amici*'s employees who are subjected to such discrimination will suffer emotional and psychological harm,[17] which is likely to negatively

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[15] *See* Todd Sears, et al., *Thinking Outside the Closet: How Leaders Can Leverage the LGBT Talent Opportunity* OUT ON THE STREET 3 (2012).

[16] András Tilcsik, *Pride and Prejudice: Employment Discrimination Against Openly Gay Men in the United States*, 117 AM. J. SOCIOLOGY. 586, 614-15 (2011).

[17] *See Stress in America: The Impact of Discrimination*, AM. PSYCHOL. ASSN. 8 (Mar. 2016) (discussing how discrimination is associated with higher stress levels and certain health

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affect their job performance and productivity. *Amici*'s efforts to create inclusive work environments for all of their employees will be undercut if their employees are being discriminated against in their own communities. Thus, a ruling for the Petitioners would mean that employees choose to work for a company because of its non-discrimination policies, but then must live in an environment where, as a customer, discrimination is permissible.

Decreased efficacy of states' non-discrimination laws would also negatively affect *amici*'s employees as they interact with other businesses as a part of their job. It is a fact of the modern marketplace that businesses do not function in silos. Purchasing goods and conducting transactions are essential aspects of operating a business and require companies and their employees to interact with each other. Petitioners' desired ruling could result in *amici*'s employees being turned away from businesses because those businesses assert a speech or religious objection to serving the employee.

Amici's business would suffer greatly under such conditions. For example, if a gay employee organized a private restaurant lunch with a client, but the restaurant's chef did not want to craft his

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disparities); Jennifer C. Pizer, et al., *Evidence of Persistent and Pervasive Workplace Discrimination Against LGBT People: The Need for Federal Legislation Prohibiting Discrimination and Providing for Equal Employment Benefits*, 45 LOY. L.A.L. REV. 715, 738 (2012) ("Research shows that experiencing discrimination can affect an individual's mental and physical health.").

specialty dishes for a gay person, the employee could be both embarrassed and precluded from conducting business affairs. Or, if a Muslim employee at a department store hired an interior designer to redesign a certain section of the store and the designer refused service because of the Muslim employee's religion, the employee would be injured and the employer would waste time and resources identifying a different designer. Indeed, such conduct could also result in spill-over consequences for employees and employers in their careers and workplaces.[18]

Amici's success as companies depends upon fair treatment of their employees, which permits smooth, consistent, and predictable business transactions. If permissible discrimination prevents *amici*'s employees from conducting business with other companies, *amici* cannot conduct their businesses efficiently or effectively.

IV. CONCLUSION

Non-discrimination laws ensure that customers are able to purchase goods and services regardless of their identity. Adopting the

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[18] Jackie Robinson considered quitting baseball when, during his first Spring training with the Brooklyn Dodgers' minor-league affiliate, multiple municipal authorities objected to black and white players on the same team, forcing the cancellation of games. Christopher Lamb, *Robinson Made History in Florida Before He Made History in Brooklyn* HUFFINGTON POST (June 14, 2013). Other employers may have considered Mr. Robinson to have been a liability.

Petitioners' broad and difficult-to-administer position establishing when businesses can opt out of non-discrimination laws and other laws of general applicability will negatively affect *amici*'s ability to operate efficiently, keep administrative costs low, promote profitability, maintain their diverse and inclusive environment, and ensure the dignified treatment of their employees. *Amici* respectfully urge that the judgment of the Colorado Court of Appeals be affirmed.

Respectfully Submitted,

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APPENDIX

The businesses and organizations that join this brief are (in alphabetical order):

1. Affirm, Inc.
2. Airbnb, Inc.
3. Amalgamated Bank
4. Amazon.com, Inc.
5. American Airlines*
6. Apple
7. Ben & Jerry's Homemade Inc.
8. Choice Hotels, International
9. Cisco Systems, Inc. *
10. Citigroup Inc.
11. Deutsche Bank
12. Glassdoor, Inc.
13. Intel Corporation

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* Denotes *amici* represented solely by Taylor & Cohen LLP. All other *amici* are represented solely by Steptoe & Johnson LLP.

14. John Hancock

15. Levi Strauss & Co.

16. Linden Research, Inc.

17. Lyft Inc.

18. Marriott International, Inc.

19. MassMutual

20. Mitchell Gold + Bob Williams

21. MongoDB, Inc.

22. National Gay & Lesbian Chamber of Commerce

23. NIO U.S.

24. PayPal Holdings, Inc.

25. Pfizer Inc

26. Postmates Inc

27. PricewaterhouseCoopers LLP

28. Prudential Financial, Inc.

29. Replacements, Ltd.

30. salesforce.com, inc.

31. SurveyMonkey

32. The Estée Lauder Companies

33. Uber Technologies, Inc.

34. WeddingWire, Inc.

35. Weebly, Inc.

36. Witeck Communications

37. Yelp Inc.